

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

LANCE PATTON,)	Cause No. CV 07-52-GF-SEH-RKS
)	
Plaintiff,)	
)	
vs.)	FINDINGS AND RECOMMENDATION
)	OF U.S. MAGISTRATE JUDGE
CASCADE COUNTY DETENTION)	
CENTER,)	
Defendants.)	
_____)	

Plaintiff Lance Patton applied to proceed in forma pauperis with this action under 42 U.S.C. § 1983 on April 19, 2007. Plaintiff is a state prisoner proceeding pro se.

On June 5, 2007, the Cascade County Detention Facility refused mail addressed to Plaintiff. Someone wrote “not here” on the envelope. See Returned Mail (doc. 5) at 1. The Court has no information as to Plaintiff’s location.

Plaintiff was specifically informed of the necessity of maintaining a current mailing address. See Notice of Case Opening (doc. 3) at 1. D. Mont. L.R. 5.4(a) requires parties proceeding pro se to “promptly file with the Court and serve upon all opposing parties a Notice of Change of Address specifying the new address.” Plaintiff’s address changed as long ago as June 5, 2007, yet he has not informed the Court of his new mailing address. D. Mont. L.R. 5.4(b) provides:

The Court may dismiss a complaint without prejudice or strike an answer when:

- (1) mail directed to the attorney or pro se party by the Court has been returned to the Court as not deliverable; and
- (2) the Court fails to receive within 60 days of this return a written communication from the attorney or pro se party indicating a current address.

Because Plaintiff has not been in contact with the Court since he filed this action on April 19, 2007, and because mail addressed to him at the Cascade County Detention Center was returned as undeliverable on June 5, 2007, the Court recommends that his complaint be dismissed under D. Mont. L.R. 5.4.

Based on the foregoing, the Court enters the following:

RECOMMENDATION

1. Plaintiff's motion to proceed in forma pauperis (doc. 2) should be ruled MOOT.
2. Plaintiff's Complaint (doc. 1) should be DISMISSED WITHOUT PREJUDICE for failure to keep the Court informed of his current mailing address.
3. Pursuant to Fed. R. App. P. 24(a)(4)(B), the district court should CERTIFY that any appeal from its disposition would not be taken in good faith.

NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATION AND CONSEQUENCES OF FAILURE TO OBJECT

Pursuant to 28 U.S.C. § 636(b)(1), Plaintiff may serve and file written objections to this Findings and Recommendations within ten (10) business days of the date entered as indicated on the Notice of Electronic Filing. A district judge will make a de novo determination of those portions of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge.

Plaintiff must immediately inform the Court of any change in his mailing address. Failure to do so may result in dismissal of this case without notice to him.

The Clerk of Court shall serve the Findings and Recommendation on Plaintiff at his last known address.

DATED this 8th day of August, 2007.

/s/ Keith Strong
Keith Strong
United States Magistrate Judge